STATE OF ILLINOIS HUMAN RIGHTS COMMISSION

IN THE MATTER OF:)		
ROBERT J. HAWLEY,)		
Complainant, and THE SPAGHETTI SHOP OF MID-AMERICA, INC., Respondent.))))))	CHARGE NO(S): EEOC NO(S): ALS NO(S):	2007SF3250 N/A S08-0383
	NOTICE		
You are hereby notified that the Illino exceptions to the Recommended Order and pursuant to Section 8A-103(A) and/or 8B-15300.910 of the Commission's Procedural Rebecome the Order and Decision of the Commission of the Commission.	d Decision in 103(A) of the ules, that Rec	the above named	case. Accordingly
STATE OF ILLINOIS HUMAN RIGHTS COMMISSION)	Entered this 7th da	y of January 2011
		ITH CHAMBERS UTIVE DIRECTOR	

STATE OF ILLINOIS

HUMAN RIGHTS COMMISSION

IN THE MATTER OF:)
ROBERT J. HAWLEY,)
Complainant,) CHARGE NO: 2007SN3250) EEOC NO: N/A) ALS NO: S08-0383
THE SPAGHETTI SHOP OF MID-AMERICA, INC.,)
Respondent.	,

RECOMMENDED ORDER AND DECISION

This matter is ready for a Recommended Order and Decision pursuant to the Illinois Human Rights Act (775 ILCS 5/1-101 et seq.). On January 9, 2009, an Order was entered, which directed Complainant to supply the Commission with a telephone number in order to facilitate his participation in a telephone conference call. The Order specifically cautioned Complainant that, in light of his prior failure to supply a telephone number, his failure to provide a telephone number could result in the entry of a future order recommending that this matter be dismissed for want of prosecution. Complainant has not supplied the Commission with a telephone number as of the date of this recommended order and has not made any contact with the Commission regarding the status of his case.

Findings of Fact

Based on the record in this matter, I make the following findings of fact:

- 1. On June 4, 2007, Complainant filed on his own behalf a Charge of Discrimination, alleging that he was discharged from his manager trainee position on account of his sexual orientation.
- 2. On August 27, 2008, the Department of Human Rights filed a Complaint on behalf of Complainant, alleging that Complainant was terminated from his manager trainee position on account of his sexual orientation.

- 3. On November 6, 2008, an Order was entered, which noted that the Commission had attempted to contact Complainant for a scheduled telephone conference call, but was unable to do so since the telephone number listed on the Charge of Discrimination had been disconnected. The Order directed Complainant to provide the Commission by December 1, 2008, with a telephone number where he could be reached during business hours, so that a future telephone conference call could be scheduled.
- 4. On January 9, 2009, an Order was entered, which noted that Complainant had not complied with the Order of November 6, 2008 and gave Complainant one more opportunity to supply the Commission by January 30, 2009 with a telephone number where he could reached for the purpose of participating in a telephone conference call.
- Complainant has failed to either supply the Commission with a telephone number or contact the Commission regarding the status of his case as of the date of this recommended order.
- 6. The Orders of November 6, 2008 and January 9, 2009 were sent to Complainant's last known address.

Conclusions of Law

- 1. Complainant's failure to provide the Commission with a current telephone number where he can be reached for future telephone conference calls has resulted in an unreasonable delay of this proceeding.
- 2. The appropriate sanction for Complainant's conduct is dismissal of this matter with prejudice.

Determination

This matter should be dismissed with prejudice due to Complainant's failure to prosecute his case.

Discussion

Section 5300.750(e) of the Commission's Procedural Rules (56 III. Admin. Code, Ch. XI, §5300.750(e)) permits a recommendation of dismissal whenever a party engages in conduct

that unreasonably delays the proceedings. Moreover, the Commission has previously

dismissed a case where a party has failed to appear at scheduled hearings and/or provide the

Commission with basic information as to where the party can be reached. (See, for example,

Tolbert and Lou's Drive-In, IHRC, ALS No. 11679, March 10, 2003.) Here, Complainant has

engaged in such conduct since he has failed to comply with two Commission Orders, directing

him to provide the Commission with a current telephone number where he could be reached.

Moreover, the January 9, 2009 Order specifically warned Complainant that he risked entry of a

future order recommending that this case be dismissed with prejudice for lack of prosecution if

he failed to provide the Commission with a telephone number where he could be reached..

Complainant's failure to contact the Commission in the face of an express warning that

his case could be dismissed for want of prosecution indicates either that he no longer cares

about pursuing his claim or that he agrees that this matter should be dismissed. In any event,

his conduct renders it difficult for the Commission to take any action with regard to this case

except to dismiss it. See, for example, Eglseder and FKG Oil Co., IHRC, ALS No. 5384(S),

August 12, 1992.

Recommendation

Based on the forgoing, it is recommended that the Complaint and the underlying Charge

of Discrimination of Robert J Hawley be dismissed with prejudice.

HUMAN RIGHTS COMMISSION

BY:

MICHAEL R. ROBINSON Administrative Law Judge Administrative Law Section

ENTERED THE 5TH DAY OF FEBRUARY, 2010

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